

HOUSE No. 4312

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Authorizing the Massachusetts Turnpike Authority to Lease Certain Property to the Boston Harbor Alliance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Aaron Michlewitz	Third Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act AUTHORIZING THE MASSACHUSETTS TURNPIKE AUTHORITY TO LEASE CERTAIN PROPERTY TO THE BOSTON HARBOR ALLIANCE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith authorize the lease of a certain parcel of land to the Rose Fitzgerald Kennedy Greenway Conservancy Inc., therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 306 of the acts of 2008 is hereby amended by striking out section 10 and inserting place thereof the following section:-

SECTION 10. (a) The authority shall lease to the conservancy for an initial period not to exceed 25 years, commencing not later than December 1, 2008, at nominal consideration the open space and park parcels within the greenway. The lease may provide for up to 3 separate 10-year extensions. The terms of such lease shall include the terms of this act and be prepared and approved by the secretary of transportation, and shall at a minimum contain covenants: preserving the greenway as park land subject to the protections afforded to public parkland under Article XCVII of the Amendments to the Massachusetts Constitution and ensuring that the greenway and the other open space parcels shall always be open to the general public; providing for the assumption and responsibility for liability coverage; providing for the operation, maintenance and programming, subject to the conservancy's reasonable regulations governing its use. Such lease shall also contain covenants providing: for the provision of 1 or more maintenance facilities for the conservancy by the authority or the commonwealth; that

any and all improvements made to the premises shall become those of the authority upon termination or default; that the community participation stipulated herein is adhered to; and that the use and expenditure of public funds received by the conservancy be reported annually to the secretary of transportation and public works and to the chairs of the house and senate committees on ways and means; and shall include such other terms and conditions, consistent with this act, as the said secretary shall deem to be in the public interest. The terms of such lease or agreement shall also contain language defining an event of default as a breach of any covenant contained therein and shall provide remedies including, but not limited to, specific performance, self help, termination, and transfer of conservancy funds to the commonwealth. On or before December 1, 2008, the secretary of transportation shall prepare and secure the execution of the lease in accord with this act. In the event of a failure by the secretary to complete said lease execution by such date all liability for the greenway shall become the responsibility of the conservancy.

(b) Notwithstanding any general or special law to the contrary, the conservancy may lease Parcel 14 to the Boston harbor island alliance for a period not to exceed the term of the lease executed between the authority and the conservancy pursuant to subsection (a); provided, further, that any lease shall contain the restriction required pursuant to subsection.

(c) Notwithstanding any general or special law to the contrary, the parcel described in subsection (b) shall be leased subject to a restriction limiting the use of the parcel to the construction and operation of a public information pavilion for visitors to the Boston Harbor Islands National Recreation Area. If at any time the property ceases to be used for the purposes described in this section and upon written notice of the authority to the conservancy of the unauthorized use, the conservancy shall provide notice of non-compliance to the Boston harbor island alliance. The Boston harbor island alliance shall, upon receipt of the notice, have 30 days to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is not thereafter established, the lease of the parcel, upon the recording of a notice thereof by the conservancy in the appropriate registry of deeds, shall terminate and any further disposition of the property shall be subject to the approval of the conservancy and the secretary of transportation.